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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/662,599

09/15/2003

Bruce L. Kennedy

02580-P0085B

2356

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7590

08/17/2006

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EXAMINER

SMITH, PHILIP ROBERT

ART UNIT

PAPER NUMBER

3739

DATE MAILED: 08/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,599

Applicant(s)

KENNEDY, BRUCE L.

Examiner

Philip R. Smith

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 1-18 and 32-45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-31 and 46-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

- [01] A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/3/2006 has been entered.

Claim Rejections - 35 USC § 102

- [02] The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- [03] Claims 19-27, 29-31 & 46-47 are rejected under 35 U.S.C. 102(a) as being anticipated by Winkler, substantially for the reasons set forth in the Office action of 7/7/2006.
- [04] With regard to claim 19: The medical video instrument disclosed by Winkler (comprising "IMD 10" and "programming apparatus 200," 12/40-49) is "inserted into a body cavity." When used as intended, at least a portion of the medical video instrument disclosed by Winkler is "inserted into a body cavity," for example, the leads of the "IMD 10" into the chest cavity. Additionally, Winkler discloses that the image stream displayed on touch screen "206" is "representative of the body cavity," as in, e.g., 12/45-49:

...a continuous-time waveform or a single complex waveform can be analyzed by analyzer 210 and displayed on display screen 206 from a variety of implanted leads, such as a lead positioned in an atrium or ventricle of heart 8...

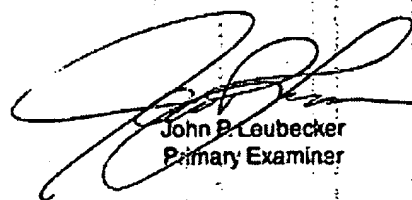
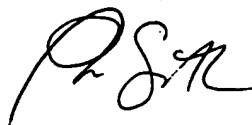
- [05] Additionally, "ECG leads 220" may provide an image stream on the touch screen which is "representative of the body cavity."
- [06] Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winkler in view of Adair and Bodicker, for the reasons set forth in the Office action of 7/7/2006.
- [07] Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winkler in view of Kohls, for the reasons set forth in the Office action of 7/7/2006.

Response to Arguments

- [08] Applicant's arguments filed 8/3/2006 have been fully considered but they are not persuasive. Applicant contends that "The system disclosed in Winkler does not teach or suggest generation of an image stream representative of the body cavity for display on a touch screen." On the contrary, Winkler discloses that the screen "206" displays the output of "a variety of implanted leads." Surely these leads are "representative of the body cavity" in that they indicate the status of the heart.
- [09] Applicant correctly notes that "Winkler teaches that the touch screen is a programming interface for the user to program the IMD," although this characterization is incomplete, as noted above. The status of the heart is determined, via "a variety of implanted leads" and "analyzer 210" (12/40), and subsequently displayed for the operator as a "representation of the body cavity."

Conclusion

- [10] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip R. Smith whose telephone number is (571) 272 6087 and whose email address is philip.smith@uspto.gov. The examiner can normally be reached between 9:00am and 5:00pm.
- [11] If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272 4764.
- [12] Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John P. Leubecker
Primary Examiner